

IFB 22844

ATTACHMENT 7 – INSURANCE REQUIREMENTS

Upon tentative award, Bidders shall be required to procure, at their sole cost and expense, all insurance required by this section, with the exception of proof of workers' compensation and disability benefits insurance coverage, proof of which should be submitted at the time of bid opening. Contractors shall be required to procure, at their sole cost and expense, and shall maintain in force at all times during the term of any Contract resulting from this solicitation, policies of insurance required by this section. All insurance shall be written by companies licensed or authorized by the New York State Department of Financial Services to issue insurance in the State of New York and which have an A.M. Best Company rating of "A-" Class "VII" or better. If, during the term of a policy, a carrier's rating falls below "A-" Class "VII," the insurance must be replaced no later than the renewal date of the policy with an insurer licensed or authorized by the New York State Department of Financial Services to issue insurance in the State of New York and which is rated at least "A-" Class "VII" or better in the most recently published Best's Insurance Report.

Bidders and Contractor shall deliver to OGS evidence of such policies in a form acceptable to OGS. Policies must be written in accordance with the requirements of the paragraphs below, as applicable. Acceptance and/or approval by OGS does not, and shall not be construed to, relieve Bidders or Contractors of any obligations, responsibilities or liabilities under this solicitation or any Contract resulting from this solicitation.

General Conditions

A. *Conditions Applicable to Insurance.* All policies of insurance required by this solicitation or any Contract resulting from this solicitation must meet the following requirements:

- 1. *Coverage Types and Policy Limits.*** The types of coverage and policy limits required from Bidders and Contractors are specified in Paragraph B *Insurance Requirements* below.
- 2. *Policy Forms.*** Except as otherwise specifically provided herein, or agreed to in writing by OGS, policies must be written on an occurrence basis.
- 3. *Certificates of Insurance/Notices.*** Bidders and Contractors shall provide a Certificate or Certificates of Insurance, in a form satisfactory to OGS, upon tentative award, and thereafter within three (3) business days of request. Certificates shall reference the Solicitation or Contract Number. As applicable, the requested forms must name the New York State Office of General Services, Procurement Services, 38th Floor, Corning Tower, Albany, New York 12242 as the Certificate Holder. Certificates shall be submitted to the New York State Office of General Services, Procurement Services, Corning Tower- 38th Floor, Empire State Plaza, Albany, NY 12242.

Policies shall be written so as to include the statutory cancellation notice provisions contained in the New York State Insurance Law. Contractors shall provide OGS a copy of any written notice of cancellation or non-renewal received from their insurer(s) within ten (10) business days of receipt.

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Bidders and Contractors shall not take any action, or omit to take any action that would suspend or invalidate any of the required coverages during the period of time such coverages are required to be in effect. Within thirty (30) days after renewal or replacement of any policy required by any Contract resulting from this solicitation, or within three (3) business days of request, Bidders and Contractors shall supply OGS with updated replacement Certificates of Insurance, and amendatory endorsements.

Certificates of Insurance shall:

- Be in the form acceptable to OGS (i.e.: an Acord form);
- Disclose any deductible, self-insured retention, aggregate limit or exclusion to the policy that materially changes the coverage required by this solicitation or any Contract resulting from this solicitation;
- Be accompanied by an Additional Insured Endorsement as required herein;
- Refer to this solicitation and any Contract resulting from this solicitation by number and any other attachments on the face of the certificate; and
- Be signed by an authorized representative of the insurance carrier, agent or broker.

Only original documents (Certificates of Insurance, endorsements & other attachments) or electronic forms, that can be directly traced back to the insurance carrier, agent or broker via e-mail distribution or similar means, will be accepted.

4. *Primary Coverage.* All insurance policies shall provide that the required coverage shall apply on a primary and not on an excess or contributing basis as to any other insurance that may be available to OGS or any Authorized User for any claim arising from a Contractor's work under any Contract awarded as a result of this solicitation, or as a result of a Bidder or Contractor's activities. Any other insurance maintained by OGS or any Authorized User shall be excess of and shall not contribute with the Bidders/Contractor's insurance.

5. *Work Conditioned on Proof of Coverage.* If, during the term of any Contract awarded as a result of this solicitation, the coverage provisions and limits of the policies required herein do not meet the provisions and limits set forth in this solicitation or any Contract resulting from this solicitation, or proof thereof is not provided to OGS, the Contractor shall immediately cease work. The Contractor shall not resume work until authorized to do so by OGS. Any delay, time lost, or additional cost incurred as a result of the Contractor not having insurance required by this solicitation or any Contract resulting from this solicitation or not providing proof of the same in a form acceptable to OGS, shall not give rise to a delay claim or any other claim against OGS. Should a Contractor fail to provide or maintain any insurance required by this solicitation or any Contract resulting from this solicitation, or proof thereof is not provided, OGS or an Authorized User may withhold further contract payments, treat such failure as a breach or default of the Contract.

6. *Self-Insured Retention/Deductibles.* Certificates of Insurance must indicate the applicable deductible/self insured retention on each policy. Deductibles or self-insured retentions above \$100,000 are subject to approval from OGS, which shall not be unreasonably withheld, conditioned or delayed. Bidders and Contractors shall be solely

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responsible for all claim expenses and loss payments within the deductible or self-insured retention.

7. **Subcontractors.** Should a Contractor engage a Subcontractor, the Contractor shall require all Subcontractors, prior to commencement of work by the Subcontractor, to secure and keep in force during the term of any Contract resulting from this solicitation, the insurance requirements of this document, as applicable. Proof thereof shall be supplied to OGS as required by this Section.

As applicable, insurance required by this solicitation or any Contract resulting from this solicitation shall name The People of the State of New York, its officers, agents, and employees as additional insureds hereunder (General Liability Additional Insured Endorsement shall be on Insurance Service Office's (ISO) form number CG 20 10 11 85 or the equivalent). Specifically, the additional insured requirement does not apply to Workers' Compensation and Disability coverage.

B. Insurance Requirements: Bidders and Contractors shall obtain and maintain in full force and effect, at their own expense, the following insurance with limits not less than those described below, or as required by law, whichever is greater (limits may be provided through a combination of primary and umbrella/excess policies):

- **Commercial General Liability Insurance** covering the liability of the Contractor for bodily injury, property damage and personal/advertising injury arising from all work and operations under this contract. The limits under such policy shall not be less than the following; General Aggregate \$2,000,000
- Products – Completed Operations Aggregate \$2,000,000
- Personal and Advertising Injury \$1,000,000
- Each Occurrence Limit \$1,000,000
- Damage to Rented Premises \$50,000
- Medical Expense \$5,000

Coverage shall include, but not be limited to, the following:

- Premises liability;
- Independent contractors;
- Blanket contractual liability, including tort liability of another assumed in a contract;
- Defense and/or indemnification obligations, including obligations assumed under this contract;
- Cross liability for additional insureds;
- Products/completed operations for a term of no less than three (3) years, commencing upon acceptance of the work, as required by the contract; and
- Explosion, collapse and underground hazards.

ISO form CG 20 10 11 85 or an equivalent- Additional Insured-Owner, Lessees or Contractors (Form B) must be endorsed to the policy:

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Limits may be provided through a combination of primary and umbrella/excess liability policies.

2. **Comprehensive Business Automobile Liability Insurance** covering liability arising out of any automobile in connection with the work required under the agreement between the Contractor and OGS, including owned, leased, hired and non-owned automobiles bearing or, under the circumstances under which they are being used, required by the Motor Vehicles Laws of the State of New York to bear, license plates. Such policy shall have a combined single limit for Bodily Injury and Property Damage of at least **\$2,000,000.00** each accident and shall name as additional insureds: the People of the State of New York, the New York State Office of General Services, any entity authorized by law or regulation to utilize the Contract as an Authorized User and their officers, agents, and employees. The limits may be provided through a combination of primary and umbrella liability policies. If the agreement between the Contractor and OGS involves the removal of hazardous waste from the project site or otherwise transporting hazardous materials, pollution liability coverage for covered autos shall be provided by form CA 99 48 03 06 or CA 00 12 03 06 and the Motor Carrier Act Endorsement (MCS90) shall be attached.

In the event that the Contractor does not own, lease, or hire any vehicles to fulfill the requirements of the Contract, the Contractor must attest to that fact and does not need to obtain business automobile liability insurance. If, however, during the term of the Contract, the Contractor acquires, leases, or hires a vehicle that will be used to fulfill the requirements of the Contract, the Contractor must obtain business automobile liability insurance that meets all of the requirements set forth in the Contract and provide evidence of such coverage no more than 10 days following the date automobile liability insurance coverage is bound.

Waiver of Subrogation. For the coverages required above, the Qualified Bidder/Contractor shall cause to be included in each of its policies a waiver of the insurer's right to recovery or subrogation against the People of the State of New York, its officers, agents, and employees, the New York State Office of General Services and any Authorized User of any Contract resulting from this solicitation. Waiver of Subrogation Endorsements shall be provided within three (3) days of a request by OGS to OGS, Procurement Services, Corning Tower- 38th Floor, Empire State Plaza, Albany, NY 12242.

C. Workers' Compensation Insurance and Disability Benefits Requirements

New York State Workers' Compensation Law (WCL) §#57 & §#220 requires the heads of all municipal and State entities to ensure that businesses applying for permits, licenses or contracts, document that they have appropriate workers' compensation and disability benefits insurance coverage. These requirements apply to both original contracts and renewals, whether the governmental agency is having the work done or is simply issuing the permit, license or contract. Failure to provide proof of such coverage or a legal exemption will result in a rejection of a bid or renewal. **A Bidder may not be awarded a Contract unless proof of workers' compensation and disability insurance is provided to OGS.**

1. Proof of Compliance with Workers' Compensation Coverage Requirements: An ACORD form (certificate of insurance) is NOT acceptable proof of workers' compensation coverage

A Bidder seeking to enter into a Contract with the State of New York shall provide one of the following forms to OGS at the time of bid submission, and thereafter, within three (3) days of request:

- A) Form CE-200, Certificate of Attestation for New York Entities With No Employees and Certain Out of State Entities, That New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required, which is available on the Workers' Compensation Board's website (www.wcb.ny.gov); (Reference applicable RFP and Group #s on the form.);
- B) Certificate of Workers' Compensation Insurance:
 - 1) Form C-105.2 (9/07) if coverage is provided by the Bidder/Contractor's insurance carrier. The Bidder/Contractor must request that its insurance carrier send this form to OGS, or
 - 2) Form U-26.3 if coverage is provided by the State Insurance Fund. The Bidder/Contractor must request that the State Insurance Fund send this form to OGS;
- C) Form SI-12, Certificate of Workers' Compensation Self-Insurance available from the New York State Workers' Compensation Board's Self-Insurance Office; or
- D) Form GSI-105.2, Certificate of Participation in Workers' Compensation Group Self-Insurance available from the Bidder/Contractor's Group Self-Insurance Administrator.

2. Proof of Compliance with Disability Benefits Coverage Requirements: An ACORD form (certificate of insurance) is NOT acceptable proof of disability benefits coverage

A Bidder seeking to enter into a Contract with the State of New York shall provide one of the following forms to OGS at the time of bid submission and thereafter, within three (3) days of request:

- A) Form CE-200, Certificate of Attestation for New York Entities With No Employees and Certain Out of State Entities, That New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required, which is available on the Workers' Compensation Board's website (www.wcb.ny.gov); (Reference applicable RFP and Group #s on the form.);
- B) Form DB-120.1, Certificate of Disability Benefits Insurance. The Bidder/Contractor must request that its insurance carrier send this form to OGS; or
- C) Form DB-155, Certificate of Disability Benefits Self-Insurance. The Bidder/Contractor must call the Board's Self-Insurance Office at 518-402-0247 to obtain this form.

Proof of coverage or an exemption shall be submitted to the New York State Office of General Services, Procurement Services, Corning Tower- 38th Floor, Empire State Plaza, Albany, NY 12242.